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10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
12 OAKLAND DIVISION

13 **JEFF JAY HANCOCK,**

Petitioner,

15 v.

16 **JAMES D. HARTLEY, Acting Warden,**

Respondent.

C 07-04469 CW (PR)

**SUPPLEMENTAL ANSWER  
TO THE COURT'S ORDER  
TO SHOW CAUSE**

19 Respondent hereby provides this Answer to the Order to Show Cause why the petition  
20 should not be granted.

21 **I.**  
22 **CUSTODY**

23 Petitioner Jeff Jay Hancock is lawfully in the custody of respondent within the meaning  
24 of the federal habeas corpus statute, 28 U.S.C. §§ 2241(c)(3) and 2254(d), pursuant to a valid  
25 judgment of the Santa Clara County Superior Court, a Santa Clara County jury having found  
26 petitioner guilty of assault with a deadly weapon (Cal. Penal Code § 245(a)(1)). The jury also  
27 found true that petitioner personally used a deadly weapon (Cal. Penal Code §§ 667 and 1192.7)  
28 and personally inflicted great bodily injury (Cal. Penal Code §§ 12022.7(a), 1203 (e)(3)). A prior

1 strike conviction within the meaning of California Penal Code sections 667 and 1170.12 (Three  
2 Strikes law) and one prior serious felony conviction within the meaning of California Penal Code  
3 sections 667(a), and 1192.7 was also found true. CT 93-96

4 On September 3, 2004, petitioner was sentenced to 11 years in prison. CT 283-284; RT  
5 542-545. Petitioner appealed. His convictions were affirmed by the California Court of Appeal on  
6 March 24, 2006. By separate order his petition for writ of habeas corpus was summarily denied.  
7 Exh. C, at 2. Petitioner's petition for review was also summarily denied by the California Supreme  
8 Court on June 14, 2006.

9 On May 18, 2007, Petitioner filed an unexhausted federal habeas petition in this Court.  
10 This Court dismissed the action without prejudice to filing once all state court post-conviction  
11 challenges were completed. Petitioner filed two additional habeas petitions in this Court. On  
12 January 15, 2008, this Court ordered that the petitions be consolidated and that Respondent file a  
13 supplemental Answer to Petitioner's Supplemental Petition.

## 14 II.

### 15 PROCEDURAL ISSUES

16 Petitioner has exhausted his state remedies as to the claims herein presented and the  
17 petition is timely. 28 U.S.C. § 2244(d).

## 18 III.

### 19 DENIAL OF CLAIMS

20 Respondent denies that petitioner suffered any deprivation of constitutional rights  
21 supporting habeas corpus relief. Specifically, respondent denies: (1) the flight instruction lowered  
22 the prosecution's burden of proof.

23 Respondent last denies that this claim entitles petitioner to relief because he has failed to  
24 establish that the state court's denial of these claims was either an unreasonable application of  
25 clearly established Federal law as determined by the United States Supreme Court or resulted in a  
26 decision based on an unreasonable determination of the facts in light of the evidence presented to  
27 the state courts. Respondent incorporates by reference the accompanying memorandum of points  
28 and authorities in support of this denial.

**IV.**

**TRANSCRIPTS AND RECORDS**

Copies of the transcript of petitioner's trial together with copies of the briefs filed on direct appeal have been lodged with this Court. These documents constitute all relevant documents and hearing transcripts necessary for this Court's decision. So far as respondent is aware, all relevant state reported proceedings have been transcribed. Rule 5, Rules Governing Section 2254 Case.

**CONCLUSION**

Accordingly, respondent respectfully requests that the petition be denied.

Dated: March 10, 2008

Respectfully submitted,

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JBH:jw  
40226592.wpd

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **Jeff Jay Hancock v., James D. Hartley, Acting Warden**

No.: **C 07-4469 CW (PR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On March 10, 2008, I served the attached

**SUPPLEMENTAL ANSWER TO THE COURT'S ORDER TO SHOW CAUSE;**

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
SUPPLEMENTAL ANSWER;**

**NOTICE OF LODGING OF, AND INDEX TO, EXHIBITS**

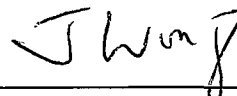
by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

**Jeff Hancock  
V-49474  
CVSP  
19025 Wiley's Well Road  
Blythe, CA 92225**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on March 10, 2008, at San Francisco, California.

\_\_\_\_\_  
J. Wong

Declarant

\_\_\_\_\_  


Signature